

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 03-6828**

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JOHN ANDREW WRIGHT, JR.,

Petitioner - Appellant,

versus

PATRICK CONROY, Warden; ATTORNEY GENERAL FOR  
THE STATE OF MARYLAND,

Respondents - Appellees.

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Appeal from the United States District Court for the District of  
Maryland, at Baltimore. William M. Nickerson, Senior District  
Judge. (CA-01-1355-WMN)

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Submitted: October 9, 2003

Decided: October 21, 2003

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Before LUTTIG, KING, and DUNCAN, Circuit Judges.

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Dismissed by unpublished per curiam opinion.

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John Andrew Wright, Jr., Appellant Pro Se. John Joseph Curran,  
Jr., Attorney General, Mary Ann Rapp Ince, OFFICE OF THE ATTORNEY  
GENERAL OF MARYLAND, Baltimore, Maryland, for Appellees.

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Unpublished opinions are not binding precedent in this circuit.  
See Local Rule 36(c).

PER CURIAM:

John Andrew Wright, Jr., seeks to appeal the district court's order denying Wright's petition filed pursuant to 28 U.S.C. § 2254 (2000). We dismiss the appeal for lack of jurisdiction because Wright's notice of appeal was not timely filed.

Parties are accorded thirty days after the entry of the district court's final judgment or order to note an appeal, see Fed. R. App. P. 4(a)(1), unless the district court extends the appeal period under Fed. R. App. P. 4(a)(5) or reopens the appeal period under Fed. R. App. P. 4(a)(6). This appeal period is "mandatory and jurisdictional." Browder v. Director, Dep't of Corrections, 434 U.S. 257, 264 (1978) (quoting United States v. Robinson, 361 U.S. 220, 229 (1960)).

The district court's order was entered on the docket on December 9, 2003. Although the district court granted two thirty-day extensions, the court was without jurisdiction to extend the appeal period beyond the times provided in Fed. R. App. P. 4(a)(5). Wright's notice of appeal was filed on March 20, 2003,\* beyond the excusable neglect period for which the district court could properly grant an extension. See Fed. R. App. P. 4(a)(5)(C).

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\* For the purposes of this appeal, we assume that the date appearing on the notice of appeal is the earliest date it could have been properly delivered to prison officials for mailing to the court. See Fed. R. App. P. 4(c); Houston v. Lack, 487 U.S. 266 (1988).

Because Wright failed to file a timely notice of appeal, we dismiss the appeal. Moreover, because we lack jurisdiction over Wright's appeal, we decline to grant a certificate of appealability. We also deny Wright's motion for appointment of counsel. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED